

200315613-1

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10/763,345

REMARKS

This is a full and timely response to the final Official Action mailed July 31, 2007.
Reconsideration of the application in light of the following remarks is respectfully requested.

Request for Continued Examination:

Applicant hereby requests Continued Examination for this application and entry and consideration of this amendment consequent thereto.

Claim Status:

Under the imposition of a previous Restriction Requirement, claims 17-28 were withdrawn from consideration and cancelled without prejudice or disclaimer. Thus, claims 1-16 and 29-36 are currently pending for further action.

Allowable Subject Matter:

In the final Office Action, claims 8-16 have been allowed. Applicant wishes to thank the Examiner for the allowance of these claims.

Additionally, claim 1-7 were indicated as containing allowable subject matter, subject to an objection raised in the final Office Action. Again, Applicant wishes to thank the Examiner for this finding of allowable subject matter.

Claim Objection:

The final Office Action objects to claims 1 and 29 because, allegedly, 'the phrase 'a second value of said variable gap distance which is smaller than said biased relative position'

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is not clear.” (Action of 7/31/07, p. 2). “It is assumed that said desired gap value is (claimed to be) less than said gap corresponding to said relative position.” (*Id.*).

Applicant does not agree that the claims were previously unclear. Applicant also notes that the claims were correctly interpreted by the Examiner, i.e., “said desired gap value is (claimed to be) less than said gap corresponding to said relative position.” Nevertheless, to advance the prosecution of this application, Applicant has herein amended claims 1 and 29 to recite this previously implicit definition.

Therefore, following entry of this amendment, the objection to claims 1 and 29 should be reconsidered and withdrawn. Consequently, claims 1-7 should be allowed, as indicated by the Examiner and discussed above.

Prior Art:

Claims 29-36 were rejected as anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 6,140,737 to Boie (“Boie”). For at least the following reasons, this rejection is respectfully traversed.

Claim 29 recites:

A method of operating a micro-electromechanical device comprising first and second plates that are capable of relative movement and biased to a relative position with a gap therebetween, said method comprising:

applying a voltage difference to said two plates, said voltage creating an attractive force against said bias that narrows said gap between said two plates, wherein said voltage difference is greater than a second voltage difference corresponding to a desired gap value, said voltage difference higher than said second voltage difference being applied to accelerate relative movement between said two plates to said desired gap value; and,

after applying said voltage difference, reducing said voltage difference between said two plates to said second voltage difference corresponding to *said desired gap value less than a gap value corresponding to said relative position.*

(Emphasis added).

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Support for the amendment to claim 29 can be found in the originally filed specification at, for example, paragraph 0049.

Specifically, Applicant notes that claim 29 recites "first and second plates that are capable of relative movement and biased to a relative position with a gap therebetween." Thus, this "biased" or rest position occurs when no voltage is applied and corresponds to a specific gap between the first and second plates.

Claims 29 also recites that a "desired gap value [is] less than [the] gap value corresponding to said relative [biased or rest] position." Consequently, the plates begin with a gap therebetween corresponding to the relative or rest position to which the plates are biased. The plates are to be drawn together to a "desired gap value less than [the] gap value corresponding to said relative position."

There is "a second voltage difference corresponding to [the] desired gap value." However, a voltage difference "greater than [said] second voltage difference" is applied "to accelerate relative movement between said two plates to said desired gap value."

In applying Boie against claim 29, the Office Action fails to appreciate the claim 29 clearly recites moving the plates from a rest or biased position to a desired and closer positioning, but applying a greater voltage than that which corresponds to that desired closer position. Rather, the Office Action incorrectly attempts to equate the desired gap value or desired position with the rest position. According to the Office Action, Boie teaches "a desired gap value (corresponding to the rest position)". As demonstrated above, claim 29 recites a desired gap value that is different from and "less than a gap value corresponding to said relative [biased or rest] position." Consequently, the teachings of Boie cannot be applied to the subject matter of claim 29 as proposed by the Office Action.

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In reality, Boie clearly does not teach or suggest the subject matter of claim 29. Specifically, Boie does not teach or suggest "applying a voltage difference to said two plates, said voltage creating an attractive force against said bias that narrows said gap between said two plates, wherein said voltage difference is greater than a second voltage difference corresponding to a desired gap value, said voltage difference higher than said second voltage difference being applied to accelerate relative movement between said two plates to said desired gap value."

"A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. For at least these reasons, the rejection based on Boie of claim 29 and its dependent claims should be reconsidered and withdrawn.

Additionally, various dependent claims of the application recite subject matter that is further patentable over the cited prior art. Specific, non-exclusive examples follow.

Claim 30 recites "further comprising reducing said voltage difference between said two plates to said second voltage difference before movement between said two plates reaches said desired gap value." When it is understood, as explained above, that the desired gap value is different and smaller than the gap at the biased rest position from which the plates started, it become inescapably clear that Boie does not teach or suggest this subject matter of claim 30, i.e. "reducing said voltage difference between said two plates to said second voltage difference before movement between said two plates reaches said desired gap value." For at least this additional reason, the rejection of claim 30 should be reconsidered and withdrawn.

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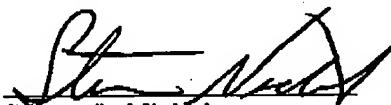
Claim 34 recites "wherein said reducing said voltage difference is performed selectively electrically connecting at least one of said plates with a second node which is held at said second voltage corresponding to said desired gap value." As above, when Boie is properly understood, it becomes clear that Boie does not teach or suggest this subject matter. Specifically, Boie does not teach or suggest two different voltages corresponding respectively to a desired gap value and a greater voltage, where the desired gap value is not at a rest position. For at least this additional reason, the rejection of claim 34 should be reconsidered and withdrawn.

Conclusion:

For the foregoing reasons, the present application is thought to be clearly in condition for allowance. If the Examiner has any comments or suggestions which could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

Respectfully submitted,

DATE: September 27, 2007

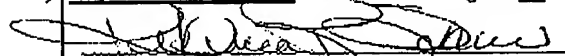

Steven L. Nichols
Registration No. 40,326

Steven L. Nichols, Esq.
Managing Partner, Utah Office
Rader Fishman & Grauer PLLC
River Park Corporate Center One
10653 S. River Front Parkway, Suite 150
South Jordan, Utah 84095

(801) 572-8066
(801) 572-7666 (fax)

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I hereby certify that this correspondence is being transmitted to the Patent and Trademark Office facsimile number **571-273-8300** on **September 27, 2007**. Number of Pages: **19**


Rebecca R. Schow